HOUSE BILL No. 1578

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-13-3-4; IC 34-26-5-9; IC 35-33-8-3.2; IC 35-38-2-2.3; IC 35-41-1; IC 35-44-3-5.

Synopsis: GPS monitoring and restraining orders. Authorizes a court or the parole board to require a person to wear a GPS tracking device as a condition of pretrial release, probation, or parole if the court or parole board has prohibited the person from having contact with an individual. Permits a court to require a person who is subject to an order of protection to wear a GPS tracking device if the court finds by a preponderance of the evidence that the person represents a credible threat to the safety of the individual or a member of the individual's household on whose behalf the order of protection is issued. Provides that if a court or the parole board orders GPS tracking, the court or parole board shall require, if available, the use of a GPS tracking device with victim notification capabilities. Requires the judicial conference of Indiana and the department of correction to provide an annual report to the general assembly until 2013 concerning GPS tracking.

Effective: July 1, 2009.

Dembowski

January 16, 2009, read first time and referred to Committee on Judiciary.



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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HOUSE BILL No. 1578

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- SECTION 1. IC 11-13-3-4, AS AMENDED BY P.L.46-2008, SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.
- (b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.
- (c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:
 - (1) retained by the parolee;
 - (2) forwarded to any person charged with the parolee's supervision; and



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1	(3) placed in the parolee's master file.
2	(d) The parole board may modify parole conditions if the parolee
3	receives notice of that action and had ten (10) days after receipt of the
4	notice to express the parolee's views on the proposed modification.
5	This subsection does not apply to modification of parole conditions
6	after a revocation proceeding under section 10 of this chapter.
7	(e) As a condition of parole, the parole board may require the
8	parolee to reside in a particular parole area. In determining a parolee's
9	residence requirement, the parole board shall:
10	(1) consider:
11	(A) the residence of the parolee prior to the parolee's
12	incarceration; and
13	(B) the parolee's place of employment; and
14	(2) assign the parolee to reside in the county where the parolee
15	resided prior to the parolee's incarceration unless assignment on
16	this basis would be detrimental to the parolee's successful
17	reintegration into the community.
18	(f) As a condition of parole, the parole board may require the
19	parolee to:
20	(1) periodically undergo a laboratory chemical test (as defined in
21	IC 14-15-8-1) or series of tests to detect and confirm the presence
22	of a controlled substance (as defined in IC 35-48-1-9); and
23	(2) have the results of any test under this subsection reported to
24	the parole board by the laboratory.
25	The parolee is responsible for any charges resulting from a test
26	required under this subsection. However, a person's parole may not be
27	revoked on the basis of the person's inability to pay for a test under this
28	subsection.
29	(g) As a condition of parole, the parole board:
30	(1) may require a parolee who is a sex offender (as defined in
31	IC 11-8-8-4.5) to:
32	(A) participate in a treatment program for sex offenders
33	approved by the parole board; and
34	(B) avoid contact with any person who is less than sixteen (16)
35	years of age unless the parolee:
36	(i) receives the parole board's approval; or
37	(ii) successfully completes the treatment program referred to
38	in clause (A); and
39	(2) shall:
40	(A) require a parolee who is a sex or violent offender (as
41	defined in IC 11-8-8-5) to register with a local law
42	enforcement authority under IC 11-8-8;



1	(B) prohibit a parolee who is a sex offender from residing	
2	within one thousand (1,000) feet of school property (as defined	
3	in IC 35-41-1-24.7) for the period of parole, unless the sex	
4	offender obtains written approval from the parole board;	
5	(C) prohibit a parolee who is a sex offender convicted of a sex	
6	offense (as defined in IC 35-38-2-2.5) from residing within	
7	one (1) mile of the victim of the sex offender's sex offense	
8	unless the sex offender obtains a waiver under IC 35-38-2-2.5;	
9	and	
10	(D) prohibit a parolee who is a sex offender from owning,	4
11	operating, managing, being employed by, or volunteering at	
12	any attraction designed to be primarily enjoyed by children	`
13	less than sixteen (16) years of age;	
14	(E) require a parolee who is a sex offender to consent:	
15	(i) to the search of the sex offender's personal computer at	
16	any time; and	4
17	(ii) to the installation on the sex offender's personal	
18	computer or device with Internet capability, at the sex	
19	offender's expense, of one (1) or more hardware or software	
20	systems to monitor Internet usage; and	
21	(F) prohibit the sex offender from:	
22	(i) accessing or using certain web sites, chat rooms, or	
23	instant messaging programs frequented by children; and	
24	(ii) deleting, erasing, or tampering with information on the	
25	sex offender's personal computer with intent to conceal an	
26	activity prohibited by item (i).	
27	The parole board may not grant a sexually violent predator (as defined	1
28	in IC 35-38-1-7.5) or a sex offender who is an offender against children	'
29	under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the	1
30	parole board allows the sex offender to reside within one thousand	
31	(1,000) feet of school property under subdivision (2)(B), the parole	
32	board shall notify each school within one thousand (1,000) feet of the	
33	sex offender's residence of the order.	
34	(h) The address of the victim of a parolee who is a sex offender	
35	convicted of a sex offense (as defined in IC 35-38-2-2.5) is	
36	confidential, even if the sex offender obtains a waiver under	
37	IC 35-38-2-2.5.	
38	(i) As a condition of parole, the parole board may require a parolee	
39	to participate in a reentry court program.	
40	(j) As a condition of parole, the parole board:	
41	(1) shall require a parolee who is a sexually violent predator	
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under IC 35-38-1-7.5; and

	'	
1	(2) may require a parolee who is a sex or violent offender (as	
2	defined in IC 11-8-8-5);	
3	to wear a monitoring device (as described in IC 35-38-2.5-3) that can	
4	transmit information twenty-four (24) hours each day regarding a	
5	person's precise location.	
6	(k) As a condition of parole, the parole board may prohibit, in	
7	accordance with IC 35-38-2-2.6, a parolee who has been convicted of	
8	stalking from residing within one thousand (1,000) feet of the residence	
9	of the victim of the stalking for a period that does not exceed five (5)	
10	years.	
11	(l) A parolee may be responsible for the reasonable expenses, as	
12	determined by the department, of the parolee's participation in a	
13	treatment or other program required as a condition of parole under	
14	this section. However, a person's parole may not be revoked solely on	
15	the basis of the person's inability to pay for a program required as a	
16	condition of parole under this section.	ı
17	(m) If the parole board requires a parolee to refrain from	1
18	contact with an individual, the parole board may also:	
19	(1) require a parolee to wear a GPS tracking device (as	
20	defined in IC 35-41-1-12.1); and	
21	(2) prohibit the parolee from approaching or entering certain	
22	locations where the individual may be found.	
23	If the parole board requires a parolee to wear a GPS tracking	
24	device under this subsection, the parole board shall, if available,	
25	require the parolee to wear a GPS tracking device with victim	
26	notification capabilities (as defined in IC 35-41-1-28.5).	
27	SECTION 2. IC 34-26-5-9, AS AMENDED BY P.L.68-2005,	,
28	SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE	
29	JULY 1, 2009]: Sec. 9. (a) If it appears from a petition for an order for	١
30	protection or from a petition to modify an order for protection that	
31	domestic or family violence has occurred or that a modification of an	
32	order for protection is required, a court may:	
33	(1) without notice or hearing, immediately issue an order for	
34	protection ex parte or modify an order for protection ex parte; or	
35	(2) upon notice and after a hearing, whether or not a respondent	
36	appears, issue or modify an order for protection.	
37	(b) A court may grant the following relief without notice and	
38	hearing in an ex parte order for protection or in an ex parte order for	
39	protection modification:	
40	(1) Enjoin a respondent from threatening to commit or	
41	committing acts of domestic or family violence against a	

petitioner and each designated family or household member.



1	(2) Prohibit a respondent from harassing, annoying, telephoning,
2	contacting, or directly or indirectly communicating with a
3	petitioner, require the respondent to wear a GPS tracking
4	device (as defined in IC 35-41-1-12.1), and prohibit the
5	respondent from approaching or entering certain locations
6	where the petitioner may be found. If the court requires a
7	respondent to wear a GPS tracking device under this
8	subdivision, the court shall, if available, require the
9	respondent to wear a GPS tracking device with victim
10	notification capabilities (as defined in IC 35-41-1-28.5).
11	(3) Remove and exclude a respondent from the residence of a
12	petitioner, regardless of ownership of the residence.
13	(4) Order a respondent to stay away from the residence, school, or
14	place of employment of a petitioner or a specified place
15	frequented by a petitioner and each designated family or
16	household member.
17	(5) Order possession and use of the residence, an automobile, and
18	other essential personal effects, regardless of the ownership of the
19	residence, automobile, and essential personal effects. If
20	possession is ordered under this subdivision, the court may direct
21	a law enforcement officer to accompany a petitioner to the
22	residence of the parties to:
23	(A) ensure that a petitioner is safely restored to possession of
24	the residence, automobile, and other essential personal effects;
25	or
26	(B) supervise a petitioner's or respondent's removal of personal
27	belongings.
28	(6) Order other relief necessary to provide for the safety and
29	welfare of a petitioner and each designated family or household
30	member.
31	(c) A court may grant the following relief after notice and a hearing,
32	whether or not a respondent appears, in an order for protection or in a
33	modification of an order for protection:
34	(1) Grant the relief under subsection (b).
35	(2) Specify arrangements for parenting time of a minor child by
36	a respondent and:
37	(A) require supervision by a third party; or
38	(B) deny parenting time;
39	if necessary to protect the safety of a petitioner or child.
40	(3) Order a respondent to:
41	(A) pay attorney's fees;
42	(B) pay rent or make payment on a mortgage on a petitioner's



1	residence;
2	(C) if the respondent is found to have a duty of support, pay
3	for the support of a petitioner and each minor child;
4	(D) reimburse a petitioner or other person for expenses related
5	to the domestic or family violence, including:
6	(i) medical expenses;
7	(ii) counseling;
8	(iii) shelter; and
9	(iv) repair or replacement of damaged property; or
10	(E) pay the costs and expenses incurred in connection with
11	the use of a GPS tracking device under subsection (b)(2);
12	or
13	(E) (F) pay the costs and fees incurred by a petitioner in
14	bringing the action.
15	(4) Prohibit a respondent from using or possessing a firearm,
16	ammunition, or a deadly weapon specified by the court, and direct
17	the respondent to surrender to a specified law enforcement agency
18	the firearm, ammunition, or deadly weapon for the duration of the
19	order for protection unless another date is ordered by the court.
20	An order issued under subdivision (4) does not apply to a person who
21	is exempt under 18 U.S.C. 925.
22	(d) The court shall:
23	(1) cause the order for protection to be delivered to the county
24	sheriff for service;
25	(2) make reasonable efforts to ensure that the order for protection
26	is understood by a petitioner and a respondent if present;
27	(3) transmit, by the end of the same business day on which the
28	order for protection is issued, a copy of the order for protection to
29	each local law enforcement agency designated by a petitioner;
30	(4) transmit a copy of the order to the clerk for processing under
31	IC 5-2-9; and
32	(5) notify the state police department of the order if the order and
33	the parties meet the criteria under 18 U.S.C. 922(g)(8).
34	(e) An order for protection issued ex parte or upon notice and a
35	hearing, or a modification of an order for protection issued ex parte or
36	upon notice and a hearing, is effective for two (2) years after the date
37	of issuance unless another date is ordered by the court. The sheriff of
38	each county shall provide expedited service for an order for protection.
39	(f) A finding that domestic or family violence has occurred
40	sufficient to justify the issuance of an order under this section means
41	that a respondent represents a credible threat to the safety of a
12	netitioner or a member of a netitioner's household. Upon a showing of



1	domestic or family violence by a preponderance of the evidence, the
2	court shall grant relief necessary to bring about a cessation of the
3	violence or the threat of violence. The relief may include an order
4	directing a respondent to surrender to a law enforcement officer or
5	agency all firearms, ammunition, and deadly weapons:
6	(1) in the control, ownership, or possession of a respondent; or
7	(2) in the control or possession of another person on behalf of a
8	respondent;
9	for the duration of the order for protection unless another date is
10	ordered by the court.
11	(g) An order for custody, parenting time, or possession or control of
12	property issued under this chapter is superseded by an order issued
13	from a court exercising dissolution, legal separation, paternity, or
14	guardianship jurisdiction over the parties.
15	(h) The fact that an order for protection is issued under this chapter
16	does not raise an inference or presumption in a subsequent case or
17	hearings between the parties.
18	SECTION 3. IC 35-33-8-3.2, AS AMENDED BY P.L.104-2008,
19	SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20	JULY 1, 2009]: Sec. 3.2. (a) A court may admit a defendant to bail and
21	impose any of the following conditions to assure the defendant's
22	appearance at any stage of the legal proceedings, or, upon a showing
23	of clear and convincing evidence that the defendant poses a risk of
24	physical danger to another person or the community, to assure the
25	public's physical safety:
26	(1) Require the defendant to:
27	(A) execute a bail bond with sufficient solvent sureties;
28	(B) deposit cash or securities in an amount equal to the bail;
29	(C) execute a bond secured by real estate in the county, where
30	thirty-three hundredths (0.33) of the true tax value less
31	encumbrances is at least equal to the amount of the bail;
32	(D) post a real estate bond; or
33	(E) perform any combination of the requirements described in
34	clauses (A) through (D).
35	If the court requires the defendant to deposit cash or cash and
36	another form of security as bail, the court may require the
37	defendant and each person who makes the deposit on behalf of the
38	defendant to execute an agreement that allows the court to retain
39	all or a part of the cash to pay publicly paid costs of
40	representation and fines, costs, fees, and restitution that the court
41	may order the defendant to pay if the defendant is convicted. The
42	defendant must also pay the fee required by subsection (d).



1	(2) Require the defendant to execute:	
2	(A) a bail bond by depositing cash or securities with the clerk	
3	of the court in an amount not less than ten percent (10%) of	
4	the bail; and	
5	(B) an agreement that allows the court to retain all or a part of	
6	the cash or securities to pay fines, costs, fees, and restitution	
7	that the court may order the defendant to pay if the defendant	
8	is convicted.	
9	A portion of the deposit, not to exceed ten percent (10%) of the	
10	monetary value of the deposit or fifty dollars (\$50), whichever is	4
11	the lesser amount, may be retained as an administrative fee. The	
12	clerk shall also retain from the deposit under this subdivision	
13	fines, costs, fees, and restitution as ordered by the court, publicly	
14	paid costs of representation that shall be disposed of in	
	• •	
15	accordance with subsection (b), and the fee required by	4
16	subsection (d). In the event of the posting of a real estate bond,	
17	the bond shall be used only to insure the presence of the	
18	defendant at any stage of the legal proceedings, but shall not be	
19	foreclosed for the payment of fines, costs, fees, or restitution. The	
20	individual posting bail for the defendant or the defendant	
21	admitted to bail under this subdivision must be notified by the	
22	sheriff, court, or clerk that the defendant's deposit may be	
23	forfeited under section 7 of this chapter or retained under	
24	subsection (b).	
25	(3) Impose reasonable restrictions on the activities, movements,	
26	associations, and residence of the defendant during the period of	
27	release.	
28	(4) Require the defendant to refrain from any direct or indirect	1
29	contact with an individual, including if the defendant has not been	
30	released from lawful detention. If the court requires a	
31	defendant to refrain from contact with an individual, the	
32	court may also:	
33	(A) require a defendant to wear a GPS tracking device;	
34	and	
35	(B) prohibit the defendant from approaching or entering	
36	certain locations where the individual may be found.	
37	If the court requires a defendant to wear a GPS tracking	
38	device under this subdivision, the court shall, if available,	
39	require the defendant to wear a GPS tracking device with	
40	victim notification capabilities.	
41	(5) Place the defendant under the reasonable supervision of a	
42	probation officer, pretrial services agency, or other appropriate	



1	public official. If the court places the defendant under the
2	supervision of a probation officer or pretrial services agency
3	(including requiring the defendant to wear a GPS tracking
4	device under subdivision (4)), the court shall determine whether
5	the defendant must pay the pretrial services fee under section 3.3
6	of this chapter.
7	(6) Release the defendant into the care of a qualified person or
8	organization responsible for supervising the defendant and
9	assisting the defendant in appearing in court. The supervisor shall
10	maintain reasonable contact with the defendant in order to assist
11	the defendant in making arrangements to appear in court and,
12	where appropriate, shall accompany the defendant to court. The
13	supervisor need not be financially responsible for the defendant.
14	(7) Release the defendant on personal recognizance unless:
15	(A) the state presents evidence relevant to a risk by the
16	defendant:
17	(i) of nonappearance; or
18	(ii) to the physical safety of the public; and
19	(B) the court finds by a preponderance of the evidence that the
20	risk exists.
21	(8) Impose any other reasonable restrictions designed to assure
22	the defendant's presence in court or the physical safety of another
23	person or the community.
24	(b) Within thirty (30) days after disposition of the charges against
25	the defendant, the court that admitted the defendant to bail shall order
26	the clerk to remit the amount of the deposit remaining under subsection
27	(a)(2) to the defendant. The portion of the deposit that is not remitted
28	to the defendant shall be deposited by the clerk in the supplemental
29	public defender services fund established under IC 33-40-3.
30	(c) For purposes of subsection (b), "disposition" occurs when the
31	indictment or information is dismissed or the defendant is acquitted or
32	convicted of the charges.
33	(d) Except as provided in subsection (e), the clerk of the court shall:
34	(1) collect a fee of five dollars (\$5) from each bond or deposit
35	required under subsection (a)(1); and
36	(2) retain a fee of five dollars (\$5) from each deposit under
37	subsection (a)(2).
38	The clerk of the court shall semiannually remit the fees collected under
39	this subsection to the board of trustees of the public employees'
40	retirement fund for deposit in the special death benefit fund. The fee
41	required by subdivision (2) is in addition to the administrative fee



retained under subsection (a)(2).

1	(e) With the approval of the clerk of the court, the county sheriff
2	may collect the bail posted under this section. The county sheriff shall
3	remit the bail to the clerk of the court by the following business day
4	and remit monthly the five dollar (\$5) special death benefit fee to the
5	county auditor.
6	(f) When a court imposes a condition of bail described in subsection
7	(a)(4):
8	(1) the clerk of the court shall comply with IC 5-2-9; and
9	(2) the prosecuting attorney shall file a confidential form
10	prescribed or approved by the division of state court
11	administration with the clerk.
12	SECTION 4. IC 35-38-2-2.3, AS AMENDED BY P.L.3-2008,
13	SECTION 249, IS AMENDED TO READ AS FOLLOWS
14	[EFFECTIVE JULY 1, 2009]: Sec. 2.3. (a) As a condition of probation,
15	the court may require a person to do a combination of the following:
16	(1) Work faithfully at suitable employment or faithfully pursue a
17	course of study or career and technical education that will equip
18	the person for suitable employment.
19	(2) Undergo available medical or psychiatric treatment and
20	remain in a specified institution if required for that purpose.
21	(3) Attend or reside in a facility established for the instruction,
22	recreation, or residence of persons on probation.
23	(4) Support the person's dependents and meet other family
24	responsibilities.
25	(5) Make restitution or reparation to the victim of the crime for
26	damage or injury that was sustained by the victim. When
27	restitution or reparation is a condition of probation, the court shall
28	fix the amount, which may not exceed an amount the person can
29	or will be able to pay, and shall fix the manner of performance.
30	(6) Execute a repayment agreement with the appropriate
31	governmental entity to repay the full amount of public relief or
32	assistance wrongfully received, and make repayments according
33	to a repayment schedule set out in the agreement.
34	(7) Pay a fine authorized by IC 35-50.
35	(8) Refrain from possessing a firearm or other deadly weapon
36	unless granted written permission by the court or the person's
37	probation officer.
38	(9) Report to a probation officer at reasonable times as directed
39	by the court or the probation officer.
40	(10) Permit the person's probation officer to visit the person at
41	reasonable times at the person's home or elsewhere.
12	(11) Pamain within the jurisdiction of the court, unless granted



1	permission to leave by the court or by the person's probation
2	officer.
3	(12) Answer all reasonable inquiries by the court or the person's
4	probation officer and promptly notify the court or probation
5	officer of any change in address or employment.
6	(13) Perform uncompensated work that benefits the community.
7	(14) Satisfy other conditions reasonably related to the person's
8	rehabilitation.
9	(15) Undergo home detention under IC 35-38-2.5.
10	(16) Undergo a laboratory test or series of tests approved by the
11	state department of health to detect and confirm the presence of
12	the human immunodeficiency virus (HIV) antigen or antibodies
13	to the human immunodeficiency virus (HIV), if:
14	(A) the person had been convicted of an offense relating to a
15	criminal sexual act and the offense created an
16	epidemiologically demonstrated risk of transmission of the
17	human immunodeficiency virus (HIV); or
18	(B) the person had been convicted of an offense relating to a
19	controlled substance and the offense involved:
20	(i) the delivery by any person to another person; or
21	(ii) the use by any person on another person;
22	of a contaminated sharp (as defined in IC 16-41-16-2) or other
23	paraphernalia that creates an epidemiologically demonstrated
24	risk of transmission of HIV by involving percutaneous contact.
25	(17) Refrain from any direct or indirect contact with an
26	individual. If the court requires the person to refrain from
27	contact with an individual, the court may also:
28	(A) require the person to wear a GPS tracking device; and
29	(B) prohibit the person from approaching or entering
30	certain locations where the individual may be found.
31	If the court requires a person to wear a GPS tracking device
32	under this subdivision, the court shall, if available, require the
33	person to wear a GPS tracking device with victim notification
34	capabilities.
35	(18) Execute a repayment agreement with the appropriate
36	governmental entity or with a person for reasonable costs incurred
37	because of the taking, detention, or return of a missing child (as
38	defined in IC 10-13-5-4).
39	(19) Periodically undergo a laboratory chemical test (as defined
40	in IC 14-15-8-1) or series of chemical tests as specified by the
41	court to detect and confirm the presence of a controlled substance
42	(as defined in IC 35-48-1-9). The person on probation is



1	responsible for any charges resulting from a test and shall have	
2	the results of any test under this subdivision reported to the	
3	person's probation officer by the laboratory.	
4	(20) If the person was confined in a penal facility, execute a	
5	reimbursement plan as directed by the court and make repayments	
6	under the plan to the authority that operates the penal facility for	
7	all or part of the costs of the person's confinement in the penal	
8	facility. The court shall fix an amount that:	
9	(A) may not exceed an amount the person can or will be able	
10	to pay;	4
11	(B) does not harm the person's ability to reasonably be self	
12	supporting or to reasonably support any dependent of the	•
13	person; and	
14	(C) takes into consideration and gives priority to any other	
15	restitution, reparation, repayment, or fine the person is	
16	required to pay under this section.	4
17	(21) Refrain from owning, harboring, or training an animal.	
18	(22) Participate in a reentry court program.	
19	(b) When a person is placed on probation, the person shall be given	
20	a written statement specifying:	
21	(1) the conditions of probation; and	
22	(2) that if the person violates a condition of probation during the	
23	probationary period, a petition to revoke probation may be filed	
24	before the earlier of the following:	
25	(A) One (1) year after the termination of probation.	
26	(B) Forty-five (45) days after the state receives notice of the	
27	violation.	
28	(c) As a condition of probation, the court may require that the	\
29	person serve a term of imprisonment in an appropriate facility at the	
30	time or intervals (consecutive or intermittent) within the period of	
31	probation the court determines.	
32	(d) Intermittent service may be required only for a term of not more	
33	than sixty (60) days and must be served in the county or local penal	
34	facility. The intermittent term is computed on the basis of the actual	
35	days spent in confinement and shall be completed within one (1) year.	
36	A person does not earn credit time while serving an intermittent term	
37	of imprisonment under this subsection. When the court orders	
38	intermittent service, the court shall state:	
39	(1) the term of imprisonment;	
40	(2) the days or parts of days during which a person is to be	
41	confined; and	
42	(3) the conditions.	



1	(e) Supervision of a person may be transferred from the court that
2	placed the person on probation to a court of another jurisdiction, with
3	the concurrence of both courts. Retransfers of supervision may occur
4	in the same manner. This subsection does not apply to transfers made
5	under IC 11-13-4 or IC 11-13-5.
6	(f) When a court imposes a condition of probation described in
7	subsection (a)(17):
8	(1) the clerk of the court shall comply with IC 5-2-9; and
9	(2) the prosecuting attorney shall file a confidential form
0	prescribed or approved by the division of state court
1	administration with the clerk.
2	(g) As a condition of probation, a court shall require a person:
3	(1) convicted of an offense described in IC 10-13-6-10;
4	(2) who has not previously provided a DNA sample in accordance
.5	with IC 10-13-6; and
6	(3) whose sentence does not involve a commitment to the
7	department of correction;
8	to provide a DNA sample as a condition of probation.
9	SECTION 5. IC 35-41-1-12.1 IS ADDED TO THE INDIANA
20	CODE AS A NEW SECTION TO READ AS FOLLOWS
21	[EFFECTIVE JULY 1, 2009]: Sec. 12.1. "GPS tracking device"
22	means a device that:
23	(1) uses a global positioning system satellite service to reliably
24	determine the location of an offender and track the locations
2.5	where the offender has been; and
26	(2) can record or transmit information twenty-four (24) hours
27	each day regarding an offender's precise location.
28	SECTION 6. IC 35-41-1-28.5 IS ADDED TO THE INDIANA
29	CODE AS A NEW SECTION TO READ AS FOLLOWS
0	[EFFECTIVE JULY 1, 2009]: Sec. 28.5. "Victim notification
1	capabilities" means, with respect to a GPS tracking device, the
32	ability of the device to do the following:
3	(1) Immediately notify law enforcement or other supervisory
4	personnel if the device enters a forbidden area.
55	(2) Notify the victim in real time or near real time if the device
66	enters a forbidden area.
37	(3) Allow a law enforcement officer or other supervisory
8	officer to contact the offender through a cellular telephone
9	implanted in the GPS tracking device.
10	(4) Activate a loud alarm to warn others of the device's
1	presence in a forbidden zone.
12	SECTION 7 IC 35-44-3-5 IS AMENDED TO READ AS



1	FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) A person, except	
2	as provided in subsection (b), who intentionally flees from lawful	
3	detention commits escape, a Class C felony. However, the offense is a	
4	Class B felony if, while committing it, the person draws or uses a	
5	deadly weapon or inflicts bodily injury on another person.	
6	(b) A person who knowingly or intentionally violates a home	
7	detention order or intentionally removes an electronic monitoring	
8	device or GPS tracking device commits escape, a Class D felony.	
9	(c) A person who knowingly or intentionally fails to return to lawful	
10	detention following temporary leave granted for a specified purpose or	1
11	limited period commits failure to return to lawful detention, a Class D	
12	felony. However, the offense is a Class C felony if, while committing	
13	it, the person draws or uses a deadly weapon or inflicts bodily injury on	
14	another person.	
15	SECTION 8. [EFFECTIVE JULY 1, 2009] (a) The judicial	
16	conference of Indiana shall submit to the general assembly before	1
17	January 15 of each year a report in an electronic format under	
18	IC 5-14-6 concerning:	
19	(1) the frequency with which GPS tracking was ordered by a	
20	court as:	
21	(A) a condition of probation;	
22	(B) a condition of pretrial release; or	
23	(C) part of an order of protection;	
24	(2) the costs associated with GPS tracking;	_
25	(3) the circumstances under which GPS tracking was ordered;	
26	(4) whether GPS tracking with victim notification capabilities	
27	was:	1
28	(A) available; and	
29	(B) ordered by a court; and	
30	(5) any other relevant information relating to electronic	
31 32	monitoring.	
33	The judicial conference may include the information as a part of its annual report under IC 11-13-1-9 or as a separate report.	
34	(b) The department of correction shall submit to the general	
35	assembly before January 15 of each year a report in an electronic	
36	format under IC 5-14-6 concerning:	
37	(1) the frequency with which GPS tracking was ordered by	
38	the parole board;	
39	(2) the costs associated with GPS tracking;	
40	(3) the circumstances under which GPS tracking was ordered;	
41	(4) whether GPS tracking with victim notification capabilities	
12	was:	
_		



1	(A) available; and
2	(B) ordered by a court; and
3	(5) any other relevant information relating to electronic
4	monitoring.
5	(c) This SECTION expires January 30, 2013.

V

